

JS 44 (Rev. 07/16)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Richard Collins

(b) County of Residence of First Listed Plaintiff Philadelphia

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Michael I. McDermott, Esq. - 1026 Winter St., Suite 200, Phila., PA 19107 - (215) 925-9732

**DEFENDANTS**

City of Phila., P/O Michael Berkery, SGT. Edward Pisarek, &amp; DET. Keith Scott

County of Residence of First Listed Defendant Philadelphia

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Aaron Shotland

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
42 U.S.C. Sec. 1983

Brief description of cause:

Civil Rights Violation under 42 U.S.C. Sec. 1983

**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA**

Richard Collins  
9101 Bluegrass Road  
Philadelphia, PA 19114

Civil Action

NO: \_\_\_\_\_

**Plaintiff**

**V.**

The City of Philadelphia  
Law Department  
1515 Arch Street  
14<sup>th</sup> Floor  
Philadelphia, PA 19104

and

Police Officer Michael Berkery  
Badge #: 9464  
1515 Arch Street  
14<sup>th</sup> Floor  
Philadelphia, PA 19104

and

Police Sergeant Edward Pisarek  
Badge #: 348  
1515 Arch Street  
14<sup>th</sup> Floor  
Philadelphia, PA 19104

and

Police Detective Keith Scott  
Badge #: 7603  
1515 Arch Street  
14<sup>th</sup> Floor  
Philadelphia, PA 19104

Formerly

Court of Common Pleas  
Philadelphia County  
Trial Division – Civil  
August Term 2016  
No. 00977

**Defendants**

**NOTICE OF REMOVAL**

**To the Honorable Judges of the United States District Court for the Eastern District of Pennsylvania.**

Pursuant to 28 U.S.C. § 1441, defendants, P/O Michael Berkery, SGT. Edward Pisarek, DET. Keith Scott and the City of Philadelphia (hereinafter “petitioners”) through their counsel, Aaron Shotland, Deputy City Solicitor, respectfully petition for the removal of this action to the United States District Court for the Eastern District of Pennsylvania. In support thereof, defendants state the following:

1. In August 2016, plaintiff initiated this action by a Complaint in the Court of Common Pleas in Philadelphia, August 2016, No. 00977. (Exhibit A - Complaint).

2. On October 6, 2016, said Complaint was served on Petitioners at 1515 Arch Street, 14th Floor, Philadelphia, Pennsylvania.

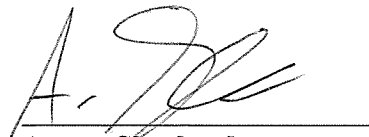
3. Plaintiff alleges that on March 23, 2013, he sustained damages when his civil rights were violated by the defendants. (Exhibit A ).

4. This action may be removed to this Court pursuant to 28 U.S.C. § 1441 since Plaintiff's Complaint contains allegations of violations of the plaintiff's Federal Civil Rights and seeks relief under 42 U.S.C. § 1983. (Exhibit A)

**Wherefore**, petitioners, P/O Michael Berkery, SGT. Edward Pisarek, DET. Keith Scott and the City of Philadelphia, respectfully request that the captioned Complaint be removed to the United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

Armando Brigandi  
Chief Deputy City Solicitor

  
**Aaron Shotland**  
**Deputy City Solicitor**  
**Attorney I.D. No. 205916**  
1515 Arch Street, 14<sup>th</sup> Floor  
Philadelphia, PA 19102  
215-683-5434

Date: 10/28/16

**IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA**

\_\_\_\_\_  
Richard Collins  
9101 Bluegrass Road  
Philadelphia, PA 19114

Civil Action

NO: \_\_\_\_\_

**Plaintiff**

**V.**

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Law Department  
1515 Arch Street  
14<sup>th</sup> Floor  
Philadelphia, PA 19104  
and

Police Officer Michael Berkery  
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Philadelphia, PA 19104  
and

Police Sargeant Edward Pisarek  
Badge #: 348  
1515 Arch Street  
14<sup>th</sup> Floor  
Philadelphia, PA 19104  
and

Police Detective Keith Scott  
Badge #: 7603  
1515 Arch Street  
14<sup>th</sup> Floor  
Philadelphia, PA 19104

Formerly

Court of Common Pleas  
Philadelphia County  
Trial Division – Civil  
August Term 2016  
No. 00977

**Defendants**

**NOTICE OF FILING OF REMOVAL**

TO: Michael I. McDermott, Esquire  
1026 Winter Street, Suite 200  
Philadelphia, PA 19107

PLEASE TAKE NOTICE THAT on October 31, 2016, defendants, P/O Michael Berkery, SGT. Edward Pisarek, DET. Keith Scott and the City of Philadelphia filed, in the office of the Clerk of the United States District Court for the Eastern District of Pennsylvania a verified Notice of Removal.

A copy of this Notice of Removal is attached hereto and is also being filed with the Clerk of the Court of Common Pleas of Philadelphia County, pursuant to Title 28, United States Code, Section 1446(e).

A handwritten signature in black ink, appearing to read 'A. Shotland', is written over a horizontal line.

**AARON SHOTLAND**

**Deputy City Solicitor**

**Attorney I.D. No. 205916**

City of Philadelphia Law Department

1515 Arch Street, 14<sup>th</sup> Floor

Philadelphia, PA 19102

215-683-5434

**IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA**

\_\_\_\_\_  
Richard Collins  
9101 Bluegrass Road  
Philadelphia, PA 19114

Civil Action

NO: \_\_\_\_\_

**Plaintiff**

**V.**

The City of Philadelphia  
Law Department  
1515 Arch Street  
14<sup>th</sup> Floor  
Philadelphia, PA 19104

and

Police Officer Michael Berkery  
Badge #: 9464  
1515 Arch Street  
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Philadelphia, PA 19104

and

Police Sargeant Edward Pisarek  
Badge #: 348  
1515 Arch Street  
14<sup>th</sup> Floor  
Philadelphia, PA 19104

and

Police Detective Keith Scott  
Badge #: 7603  
1515 Arch Street  
14<sup>th</sup> Floor  
Philadelphia, PA 19104

Formerly

Court of Common Pleas  
Philadelphia County  
Trial Division – Civil  
August Term 2016  
No. 00977

**Defendants**

**CERTIFICATE OF SERVICE**

I, Aaron Shotland, Deputy City Solicitor do hereby certify that a true and correct copy of the attached Notice of Removal has been served upon the following by First Class Mail, postpaid, on the date indicated below:

TO: Michael I. McDermott, Esquire  
1026 Winter Street, Suite 200  
Philadelphia, PA 19107

  
A horizontal line is drawn below the signature.

**Aaron Shotland**

**Deputy City Solicitor**

City of Philadelphia Law Department  
1515 Arch Street, 14<sup>th</sup> Floor  
Philadelphia, PA 19102  
215-683-5434

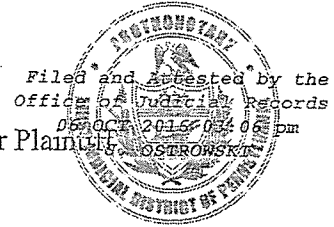
Date: 10/28/16

Exhibit “A”



91152

MICHAEL I. MCDERMOTT, ESQUIRE  
 I.D. No. 52917  
 1026 WINTER STREET  
 SUITE 200  
 PHILADELPHIA, PA 19107  
 (215) 925-9732  
 (215) 440-7882 (fax)  
 Email: [mmcder1188@aol.com](mailto:mmcder1188@aol.com)



Attorney for Plaintiff

RICHARD COLLINS  
 Plaintiff,

IN THE COURT OF COMMON PLEAS  
 PHILADELPHIA COUNTY

v.

THE CITY OF PHILADELPHIA-LAW  
 DEPARTMENT, et al  
 Defendants

AUGUST TERM 2016  
 No.: 00977

### NOTICE TO DEFEND AND CLAIM RIGHTS

#### NOTICE

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED, BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PHILADELPHIA BAR ASSOCIATION  
 LAWYER REFERRAL AND INFORMATION SERVICE  
 1101 MARKET STREET, 11<sup>TH</sup> FLOOR  
 PHILADELPHIA, PENNSYLVANIA 19107  
 TELEPHONE: (215) 238-1701

#### AVISO

LE HAN DEMANDADO A USTED EN LA CORTE. SI USTED QUIERE DEFENDERSE DE ESTAS DEMANDAS EXPUESTAS EN LAS PAGINAS SIGUIENTES, ESTED TIENE VIENTE (20) DIAS DE PLAZO AL PARTIR DE LA FECHA DE LA DEMANDA Y LA NOTIFICACION. HACE FALTA ASENTAR UNA COMPARENCIA ESCRITA O EN PERSONA O CON UN ABOGADO Y ENTREGAR A LA CORTE EN FORMA ESCRITA SUS DEFENSAS O SUS OBJECIONES A LAS DEMANDAS EN CONTRA DE SU PERSONA. SEA AVISADO QUE SI USTED NO SE DEFIENDE, LA CORTE TOMARA MEDIDAS Y PUEDE CONTINUAR LA DEMANDA EN CONTRA SUYA SIN PREVIO AVISO O NOTIFICACION. ADEMÁS, LA CORTE PUEDE DECIDIR A FAVOR DEL DEMANDANTE Y REQUIERE QUE USTED CUMPLA CON TODAS LAS PROVISIONES DE ESTA DEMANDA. USTED PUEDE PERDER DINERO O SUS PROPIEDADES U OTROS DERECHOS IMPORTANTES PARA USTED.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

ASOCIACION DE LICENCIADOS DE FILADELFA  
 Servicio De Referencia E Informacion Legal  
 1101 MARKET STREET, 11<sup>TH</sup> FLOOR  
 PHILADELPHIA, PENNSYLVANIA 19107  
 Telefono: (215) 238-1701

Michael I. McDermott, Esquire  
ID No. 52917  
1026 Winter Street  
Suite 200  
Philadelphia, PA 19107  
(215) 925-9732

Attorney for Plaintiff,  
Richard Collins

RICHARD COLLINS  
9101 Bluegrass Road  
Philadelphia, Pa 19114

vs.

THE CITY OF PHILADELPHIA  
LAW DEPARTMENT  
1515 Arch Street  
14th Floor  
Philadelphia, PA 19104

and

POLICE OFFICER MICHAEL BERKERY  
Badge #: 9464  
1515 Arch Street  
14th Floor  
Philadelphia, PA 19104

and

POLICE SARGEANT EDWARD PISAREK  
Badge #: 348  
1515 Arch Street  
14TH Floor  
Philadelphia, PA 19104

and

POLICE DETECTIVE KEITH SCOTT  
Badge #: 7603  
1515 Arch Street  
14th Floor  
Philadelphia, PA 19104

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY  
CIVIL ACTION

AUGUST TERM, 2016  
No.:00977

**COMPLAINT**

### INTRODUCTION

1. This is a civil rights action for money damages against defendants, City of Philadelphia and Philadelphia Police Officer, Michael Berkery, Philadelphia Police Sergeant, Edward Pisarek, and Philadelphia Police Detective, Keith Scott for injuries caused by the unlawful arrest of the plaintiff. Plaintiff was arrested while legally parked in his vehicle due to allegedly matching the description of a male who committed an armed robbery.

### JURISDICTION

2. This action is brought pursuant to 42 U.S.C.A. §§ 1983 and 1988 and the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution. Jurisdiction is founded upon 28 U.S.C.A. §§ 1331 and 1343. Plaintiff further invokes the pendent jurisdiction of this Court to hear and decide claims arising under the law of the Commonwealth of Pennsylvania pursuant to 28 United States Code Section 1376(a) to hear and decide claims under state law.

### PARTIES

3. Plaintiff, Richard Collins is a citizen of the Commonwealth of Pennsylvania residing at 9101 Bluegrass Road, Philadelphia, Pa 19114.

4. Defendant, City of Philadelphia is a municipality of the Commonwealth of Pennsylvania and owns, operates, manages, directs and controls Philadelphia Police Department with its principal place of business located at 1515 Arch Street, 14<sup>th</sup> Floor, Philadelphia, PA 19104.

5. Defendant, Police Officer Michael Berkery Badge #: 9464 is a police officer employed by defendant, City of Philadelphia and was acting at all times under the color of state law, which has its business address at 1515 Arch Street, 14<sup>th</sup> Floor, Philadelphia, PA 19104. He is being sued in both his individual and official capacity.

6. Defendant, Police Sergeant, Edward Pisarek, Badge #: 9464 is a police officer employed by defendant, City of Philadelphia and was acting at all times under the color of state law, which has its business address at 1515 Arch Street, 14<sup>th</sup> Floor, Philadelphia, PA 19104. He is being sued in both his individual and official capacity.

7. Defendant, Police Detective, Keith Scott Badge #: 7603 is a police officer employed by defendant, City of Philadelphia and was acting at all times under the color of state law, which

has its business address at 1515 Arch Street, 14<sup>th</sup> Floor, Philadelphia, PA 19104. He is being sued in both his individual and official capacity.

8. The actions of defendants, Philadelphia Police Officer, Michael Berkery, Philadelphia Police Sergeant, Edward Pisarek, and Philadelphia Police Detective, Keith Scott, alleged in this complaint were taken under color of the laws of the Commonwealth of Pennsylvania and the City and County of Philadelphia.

9. All of the acts alleged to have been done, or not to have been done herein were done by the defendants and/ or by their agents, employees, servants, and/or workmen acting within the scope of their employment and/or agency by and on behalf of the defendants.

#### FACTS

10. On the evening of Saturday, March 23, 2013 at approximately 7:43 p.m., Xiu Mel Xaio, the owner of Red Sun Food Market located at 4542 Cottman Avenue, Philadelphia, PA reported to police that a male perpetrator robbed the complainant's store.

11. Xiu Mel Xaio's description of the male was as follows, "White male. He had on a tan coat. He had a beard."

12. On the evening of Saturday, March 23, 2013 at approximately 7:45 p.m., defendants, Philadelphia Police Officer Michael Berkery and Philadelphia Police Sergeant, Edward Pisarek, stopped and arrested plaintiff, Richard Collins, at 7500 Torresdale Avenue, Philadelphia, PA because according to the defendants the plaintiff allegedly fit the flash information given over police radio.

13. Defendant, Philadelphia Police Officer Michael Berkery, stated the flash information was, "White male, six feet, green eyes, black jacket with fur on the hood and blue jeans."

14. At the time of his arrest, Defendant, Philadelphia Police Officer Michael Berkery stated the plaintiff was wearing "a grey hoodie and blue jeans."

15. When asked why he stopped the plaintiff, defendant, Philadelphia Police Officer Michael Berkery stated, "He fit the physical description of the offender."

16. At the time, defendants, Philadelphia Police Officer Michael Berkery and Philadelphia Police Sergeant, Edward Pisarek, stopped and arrested plaintiff, Richard Collins, the plaintiff was inside of his motor vehicle.

17. Defendants, Philadelphia Police Officer Michael Berkery and Philadelphia Police Sergeant, Edward Pisarek, completed a Philadelphia Police Department Vehicle or Pedestrian Investigation Report, which includes the flash information as, "grey hoodie, black jacket with fur on hood and blue jeans."

18. Philadelphia Police Officer Apostolou stated the flash Information was, "white male, tan/coat with fur around the hood armed with a black gun."

19. Philadelphia Police Officer Anthony Manes stated the flash Information was, "white male, brown jacket with fur around the collar."

20. In the Philadelphia Police Department Vehicle or Pedestrian Investigation Report, Defendants, Philadelphia Police Officer Michael Berkery and Philadelphia Police Sergeant, Edward Pisarek, claim the plaintiff had a bulge in his front pocket, which turned out to be a cell phone and wallet.

21. Xiu Mel Xaio claims that \$300.00 was taken from the store.

22. When the plaintiff was arrested, recovered from him was \$93.00.

23. Plaintiff, Richard Collins attempted to explain to defendants, Philadelphia Police Officer Michael Berkery and Philadelphia Police Sergeant, Edward Pisarek, that he was just at the PNC Bank located at Welsh Road and had the receipts to prove what time he was there in his motor vehicle.

24. Defendants, Philadelphia Police Officer Michael Berkery and Philadelphia Police Sergeant, Edward Pisarek, refused to listen to the plaintiff and/or check his motor vehicle for the receipts.

25. Defendant, Philadelphia Police Detective Keith Scott recovered a video of the robbery of the Red Sun Food Market from the owner, Xiu Mel Xaio.

26. The video shows the perpetrator committing the crime including the perpetrator's sneakers, a pair of dark Nike sneakers with a white "Swoosh" on the side.

27. Defendant, Philadelphia Police Detective Keith Scott, recovered the sneakers the plaintiff was wearing, dark blue Nike sneakers with a White "Swoosh" Nike Symbol and white soles.

28. Defendant, Philadelphia Police Detective Keith Scott stated, "Sneakers worn by the defendant match those worn by the offender in the stores surveillance video." By the defendant, the detective means the plaintiff in the instant action.

29. The sneakers worn by the perpetrator in the video and the sneakers recovered from the plaintiff do not match.

30. Defendants, Philadelphia Police Officer Michael Berkery and Philadelphia Police Sergeant, Edward Pisarek, checked the plaintiff's criminal background and noticed that he had been convicted of a prior robbery.

31. Following becoming aware of the plaintiff's prior record, defendants, Philadelphia Police Officer Michael Berkery and Philadelphia Police Sergeant, Edward Pisarek arrested the plaintiff.

32. The defendants handcuffed the plaintiff and sat him down along the curb and sidewalk.

33. Xiu Mel Xaio was transported to 7500 Torresdale Avenue, Philadelphia, PA where many police officers and vehicles were located and asked to look at the plaintiff as he was dragged to his feet from the curb to the witness.

34. In response to this highly suggestive staging, the victim identified the plaintiff as the perpetrator.

35. The cash register taken by the perpetrator from the store was located at Teesdale & Ditman Streets, Philadelphia, PA and latent fingerprints were recovered from the bottom of the cash register.

36. These fingerprints were sent for testing to see if they matched the plaintiff's fingerprints by defendant, Philadelphia Police Detective Keith Scott.

37. Defendant, Philadelphia Police Detective Keith Scott did not follow up with the lab and didn't let the Philadelphia District Attorney's Office know for more than a year that the fingerprints found on the cash register did not match the plaintiff's fingerprints.

38. Plaintiff was charged criminally with the following charges:

Aggravated Assault 18 § 2702 §§A;

Theft by Unlaw Taking-Movable Prop 18 § 3921 §§A;  
Receiving Stolen Property 18 § 3925 §§A;  
Poss Instrument of Crime W/Int 18 § 907 §§A;  
Terroristic Threats W/ Int to Terrorize Another 18 § 2706 §§A1;  
Simple Assault 18 § 2701 §§A;  
Recklessly Endangering Another Person 18 § 2705; and  
Robbery-Inflct Serious Bodily Injury 18 § 3701 §§A

39. The plaintiff paid legal fees of approximately \$13,000.00 for defense of the criminal case.

40. The plaintiff was incarcerated from the date of his arrest, March 23, 2013 to June 13, 2014

41. The criminal charges were dismissed on August 7, 2014.

42. Plaintiff suffered fear, humiliation, anger, emotional distress, financial ruin and his freedom as a result of the conduct of the defendants.

**FIRST COUNT: 42 U.S.C.A. § 1983**

43. The above paragraphs are incorporated by reference.

44. At all times relevant to this complaint, defendants were acting under color of the laws of the Commonwealth of Pennsylvania and the City and county of Philadelphia.

45. Plaintiff was arrested without probable cause.

46. By the actions described in the preceding paragraphs, the defendants deprived the plaintiff of clearly established rights guaranteed by the Constitution of the United States and by the Constitution of the Commonwealth of Pennsylvania, including:

- a. freedom from unreasonable seizure of his person;
- b. freedom from arrest without probable cause; and
- c. freedom of speech.

47. In depriving plaintiff of these rights, the defendants acted recklessly and with deliberate indifference to the plaintiff's constitutional rights.

48. As a direct and proximate result of the acts of the defendant police officers, the plaintiff suffered the injuries described above.



**SECOND COUNT: FALSE IMPRISONMENT**

49. The above paragraphs are incorporated by reference.

50. The arrest and subsequent confinement of the plaintiff was without probable cause.

51. As a direct and proximate result of this unjustified restraint, the plaintiff suffered the emotional and dignitary injuries described above.

**THIRD COUNT: VIOLATIONS OF THE COMMONWEALTH OF PENNSYLVANIA  
CONSTITUTION CIVIL RIGHTS PROTECTIONS**

52. The above paragraphs are incorporated by reference.

53. By their actions the defendant police officers deprived the plaintiff of clearly established rights guaranteed by the Constitution of the United States and by Commonwealth of Pennsylvania, including:

- a. freedom from unreasonable seizure of his person;
- b. freedom from arrest without probable cause; and
- c. freedom from intimidation and humiliation.

54. As a direct and proximate result of these deprivations and interferences, plaintiff suffered the injuries described above.

**COUNT FOUR: SUPPLEMENTAL CLAIMS AGAINST THE CITY OF  
PHILADELPHIA**

55. The above paragraphs are incorporated by reference.

56. Defendant, the City of Philadelphia negligently hired, retained and supervised the agents servants and/or workers including the administrative staff and police officer(s) of the Philadelphia Police Department who disregarded the warnings of impending violence to the plaintiff and permitted the arrest without probable cause and/or legal justification in the instant action under the laws of the Commonwealth.

57. As a result of the above actions the Plaintiff suffered the damages as aforesaid.

**Wherefore**, Plaintiff requests the following relief:

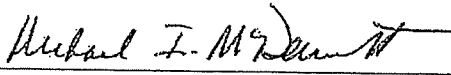
- (a) Compensatory damages;
- (b) Punitive damages;



- © Reasonable attorney's fees and costs;
- (d) Interest; and
- (e) Such further relief as the Court deems just and proper.

Respectfully submitted:

Date: 10/06/16


  
\_\_\_\_\_  
Michael I. McDermott, Esquire  
Identification No. 52917  
1026 Winter Street -Suite 200  
Philadelphia, PA 19107  
(215) 925-9732  
Attorney for plaintiff,  
Richard Collins

VERIFICATION

I hereby state that the statements made in the foregoing Amended Complaint are true and correct to my best knowledge, information and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Dated: 10/06/16

By:

  
\_\_\_\_\_  
Plaintiff, Richard Collins

---

Michael I. McDermott, Esquire

I. D. No. 52917

1026 Winter Street

Suite 200

Philadelphia, PA 19107

(215) 925-9732

Attorney for Plaintiff,

Richard Collins

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RICHARD COLLINS

Plaintiff,

v.

THE CITY OF PHILADELPHIA-LAW  
DEPARTMENT, et al

Defendants

: IN THE COURT OF COMMON PLEAS  
: PHILADELPHIA COUNTY  
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**CERTIFICATE OF SERVICES**

This is to certify that on 6<sup>th</sup> day of October 2016, I served a true and correct copy of the following: Plaintiff's Complaint the original which has been electronically filed with the court on October 6<sup>th</sup>, 2016 to all parties of record via email thereon:

Armando M. Brigandi, Esquire  
1515 Arch Street  
Philadelphia Pa 19102

Respectfully submitted:

/s/ Michael I. McDermott, Esquire

Michael I. McDermott, Esquire

## UNITED STATES DISTRICT COURT

**FOR THE EASTERN DISTRICT OF PENNSYLVANIA – DESIGNATION FORM** to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 9101 Bluegrass Road, Philadelphia, PA 19114

Address of Defendant: Law Department, 1515 Arch Street, 14<sup>th</sup> Floor, Philadelphia, PA 19102

Place of Accident, Incident or Transaction: Philadelphia, PA  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?  
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)). Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒  
RELATED CASE IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All
2. ☐ FELA
3. ☐ Jones Act – Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All Other Federal Questions Cases (Please specify)

B. Diversity Jurisdiction Cases:

- Other Contracts
1. ☐ Insurance Contract and Other Contracts
  2. ☐ Airplane Personal Injury
  3. ☐ Assault, Defamation
  4. ☐ Marine Personal Injury
  5. ☐ Motor Vehicle personal Injury
  6. ☐ Other Personal Injury (Please specify)
  7. ☐ Products Liability
  8. ☐ Products liability - Asbestos
  9. ☐ All other Diversity Cases  
(Please specify)

**ARBITRATION CERTIFICATION**

(Check appropriate Category)

I, Aaron Shotland, counsel of record do hereby certify:

- ☐ Pursuant to Local Rule 53.3 A, civil rights cases are excluded from arbitration.
- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 10/31/2016

Aaron Shotland  
Attorney-at-Law

205916  
Attorney I.D. #

**NOTE:** A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10/31/2016

Aaron Shotland, Esquire  
Attorney-at-Law

205916  
Attorney I.D. #

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Richard Collins

Civil Action

v.

City of Philadelphia

Police Officer Michael Berkery

Police Sargeant Edward Pisarek

Police Detective Keith Scott

No.

CASE MANAGEMENT TRACK DESIGNATION FORM

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus -- Cases brought under 28 U.S.C. §2241through § 2255. ( )
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management -- Cases that do not fall into any one of the other tracks. (X)

Aaron Shotland, Esquire

10/31/2016  
Date

Attorney-at-law

City of Philadelphia, et al.  
Attorney for

(215) 683-5434

(215) 683-5397

aaron.shotland@phila.gov

Telephone

FAX Number

E-mail Address